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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

FRANCES LEVEY REVOCABLE LIVING TRUST;
WENDY KAPNER REVOCABLE TRUST; WENDY
KAPNER as trustee of Frances Levey Revocable Living
Trust, grantor and trustee of Wendy Kapner Revocable
Trust and individually; and JAMES KAPNER,

Defendants.

Adv. Pro. No. 10-05430 (CGM)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and defendants, Frances Levey Revocable Living trust; Wendy Kapner Revocable Trust; Wendy Kapner as trustee of Frances Levey Revocable Living Trust, grantor and trustee of Wendy Kapner Revocable Trust and individually; and James Kapner, (“Defendants”), by and through their counsel, Howard Kleinhendler, Esquire (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On November 12, 2010, the Trustee filed the Complaint against Defendants. The Complaint was served on March 14, 2011.
2. On June 20, 2011, Defendants served an answer on the Trustee.
3. On June 17, 2015, the parties engaged in mediation.
4. On November 17, 2020, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of default as set forth in the settlement agreement.
6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and

parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: March 12, 2021

BAKER & HOSTETLER LLP

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*Attorneys for Irving H. Picard, Trustee for the
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LLC and the Chapter 7 Estate of Bernard L.
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SO ORDERED:

HOWARD KLEINHENDLER ESQUIRE

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Attorney for Defendants

**Dated: March 15, 2021
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
Chief U.S. Bankruptcy Judge**